

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

IN RE	:	CHAPTER 13
	:	
JORGE DAVID MENDEZ OSORIO,	:	CASE NO. 18-40743-BEM
	:	
Debtor.	:	
	:	
<u>SANTANDER CONSUMER USA INC.,</u>	:	— — — — —
	:	
Movant,	:	
	:	
v.	:	CONTESTED MATTER
	:	
JORGE DAVID MENDEZ OSORIO,	:	
Debtor; and MARY IDA TOWNSON,	:	
Trustee,	:	
	:	
Respondents.	:	
	:	
	:	

MOTION FOR RELIEF FROM AUTOMATIC STAY

NOW COMES SANTANDER CONSUMER USA INC. (the "Movant") and moves this Court for relief from the automatic stay and shows the Court as follows:

1.

On April 2, 2018, Jorge David Mendez Osorio ("Debtor") filed a Voluntary Petition pursuant to 11 U.S.C. Chapter 13, and said case is pending before this Court.

2.

Movant has a security interest in Debtor's vehicle, to wit: 2017 Toyota Yaris VIN: VNKKTUD35HA075902 (the "Collateral"). The Collateral was purchased, and the debt incurred, *postpetition*. The approximate payoff is \$12,711.21 as of September 9, 2020, with a delinquency on the loan secured thereby of \$1,079.20. The loan is due for the May 28, 2020, payment through the August 28, 2020, payment. The NADA retail value of the Collateral is \$11,275.00, and Movant has no other Collateral securing this loan.

3.

Debtor does not have equity in the Collateral and the Collateral is not necessary to a reorganization that is in prospect.

4.

Cause exists to grant Movant relief from the automatic stay so as to authorize Movant to recover and dispose of the Collateral and to proceed to collect against non-property of the estate for any resulting deficiency balance.

5.

Movant requests that Bankruptcy Rule 4001(a)(3) be waived.

6.

Movant has no proof of full coverage insurance protecting its interest in the Collateral.

WHEREFORE, Movant prays that this Court:

(a) Hold a hearing pursuant to this Motion within thirty (30) days as is required under 11 U.S.C. Section 362(e);

(b) Grant Movant relief from the automatic stay under 11 U.S.C. Section 362(d) so as to allow Movant to recover and dispose of the Collateral and to collect against non-property of the estate for any resulting deficiency balance;

(c) Rule 4001(a)(3) be waived; and

(d) Grant such other and further relief as the Court deems to be just and proper.

This September 13, 2020.

The Law Office of
LEFKOFF, RUBIN, GLEASON & RUSSO, P.C.
Attorneys for Movant

By: /s/Craig B. Lefkoff
Craig B. Lefkoff
Georgia State Bar No. 445045

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	:	
	:	
	:	

CERTIFICATE OF SERVICE

The undersigned, Craig B. Lefkoff, hereby certifies that I am, and at all times hereinafter mentioned, was more than 18 years of age, and that I served the MOTION FOR RELIEF FROM AUTOMATIC STAY and NOTICE OF HEARING on the following parties 1) electronically, if allowed by and pursuant to the requirements of local rule, or 2) by depositing same in the United States Mail in properly addressed envelope(s) with adequate postage to all others, as follows:

Jorge David Mendez Osorio
259 Brownsville Road
Powder Springs, GA 30127

Howard P Slomka
Slipakoff & Slomka, PC
Suite 2100
3350 Riverwood Pkwy.
Atlanta, Georgia 30339

Mary Ida Townson
Chapter 13 Trustee
285 Peachtree Center Avenue, NE
Suite 1600
Atlanta, GA 30303

This September 13, 2020.

The Law Office of
LEFKOFF, RUBIN, GLEASON & RUSSO, P.C.
Attorneys for Movant

By: /s/Craig B. Lefkoff
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	:	

NOTICE OF HEARING

PLEASE TAKE NOTICE that **Santander Consumer USA Inc.** has filed a Motion for Relief from Automatic Stay and related papers with the Court seeking an order of relief from the Automatic Stay.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Motion for Relief from Automatic Stay, in Courtroom 342, The Federal Building, 600 East First Street, Rome, Georgia 30161 at 10:15 a.m. on September 30, 2020.

Given the current public health crisis, hearings may be telephonic only. Please check the “Important Information Regarding Court Operations During COVID-19 Outbreak” tab at the top of the GANB Website (<http://www.ganb.uscourts.gov/>) prior to the hearing for instructions on whether to appear in person or by phone.

Your rights may be affected by the Court’s ruling on these pleadings. You should read these pleadings carefully and discuss with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the Court to grant the relief sought in these pleadings, or if you want the Court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the

pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address for the Clerk's Office is: Clerk, United States Bankruptcy Court, Room 339, Federal Building, 600 East First Street, Rome, Georgia 30161-3187. You must also mail a copy of your response to the undersigned at the address stated below.

IF THE MOTION IS FOR RELIEF FROM STAY, and a hearing on the motion for relief from the automatic stay cannot be held within thirty (30) days, Movant waives the requirement for holding a preliminary hearing within thirty days of filing the motion and agrees to a hearing on the earliest possible date. Movant consent to the automatic stay remaining in effect until the Court orders otherwise.

Dated: September 13, 2020

Signature: /s/Craig B. Lefkoff

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